

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

AKPENYEY, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	No. 15-732C
)	(Judge Sweeney)
THE UNITED STATES,)	
)	
Defendant.)	

**DEFENDANT’S MOTION FOR A STAY IN LIGHT OF LAPSE
OF APPROPRIATIONS AND REQUEST FOR ENLARGEMENT
OF SUMMARY JUDGMENT BRIEFING DEADLINES**

Defendant, the United States, hereby moves for a stay of the above-captioned case, as well as an enlargement of the summary judgment briefing deadlines set forth in the Court’s October 2, 2017 Order [ECF No. 34].

At midnight on January 19, 2018, the continuing resolution that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most Executive agencies. The Department does not know when funding will be restored by Congress. Absent an appropriation or continuing resolution, Department of Justice attorneys are prohibited from working, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342. Undersigned counsel for the Department of Justice therefore requests a stay of the above-captioned case until Congress has restored appropriations to the Department.

In addition to the request for a stay of the case, the Government asks that the upcoming summary judgment briefing deadlines for the parties be extended commensurate with the duration of the lapse in appropriations. The next deadline in the summary judgment

briefing schedule is February 15, 2018 for Plaintiffs' and Defendant's responses to the motions for summary judgment that were filed on January 16, 2018. The replies are currently due by March 1, 2018. If the request for a stay is granted, undersigned counsel will notify the Court as soon as Congress has appropriated funds for the Department and will file a proposed revised summary judgment briefing schedule that accounts for the lapse in time. Plaintiffs' counsel has authorized counsel for the Government to state that plaintiffs have no objection to this motion.

Therefore, although we greatly regret any disruption caused to the Court and the other litigants, the Government hereby moves for a stay of the above-captioned case until Department of Justice attorneys are permitted to resume their usual civil litigation functions, and requests an enlargement of the summary judgment briefing deadlines that are affected by the lapse in appropriations.

Respectfully submitted,

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